

REMARKS/ARGUMENTS

Claims 1-3 and 10-17 are pending. Claims 4-9 are canceled without prejudice.

Claims 10-17 are added and find support in original claim 1 and the specification: page 7, line 21, to page 9, line 24. No new matter has been entered.

Claims 1-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Tanikawa et al.* (US 5,314,883). *Tanikawa et al.* does disclose “4-bromo-6-[3-(4-chlorophenyl)propoxy]-5-(3-pyridylmethylamino)-3-(2H)-pyridazinone and salts thereof (see claim 14); however, the Office’s assertion that “The term “[a] vascular intimal hyperplasia inhibitor” is construed to be an inherent characteristic of the genus of compounds represented by formula I as recited in instant claim 1” is not supported (Office Action, page 3). If it is the Office’s intention to rely on the theory of inherency, it is respectfully submitted that the Office has the burden of establishing that what is described by *Tanikawa et al.* necessarily, each and every time, has the properties as defined in the claims. As there is no such basis provided in the Action, the Office has failed to establish a prima facie case of anticipation for claims 1-9.

With respect to new claims 10-17, *Tanikawa et al.* does not disclose a method of inhibiting vascular intimal hyperplasia, comprising administering a therapeutically effective amount of a 3(2H)-pyridazinone compound represented by formula (I), or a pharmacologically acceptable salt thereof, to a patient in need thereof (see claim 10). Therefore, *Tanikawa et al.* can not be considered anticipatory of Applicants’ claims 10-17.


Regarding the double patenting rejections, a terminal disclaimer can be filed, if the claims in the present application remain obvious in view of the claims of the three cited U.S. patents at the time of allowance of the present application. Furthermore, additional amendments (if needed for allowance of these claims) may eliminate the double-patenting rejection, making the filing of a Terminal Disclaimer at this time premature. Indeed, M.P.E.P. § 804.02 IV states that, prior to issuance, it is necessary to disclaim each one of the

double patenting references applied. Hence, Applicants respectfully request that the examiner contact the undersigned should the present amendments and arguments be accepted and should the present application be otherwise in a condition for allowance. At that time, a terminal disclaimer if warranted can be supplied to expedite issuance of this case.

For the reasons discussed above, Applicants submit that all now-pending claims are in condition for allowance. Applicants respectfully request the withdrawal of the rejections and passage of this case to issue.

Respectfully submitted,

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